IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.4961 OF 1998

Shri Bhagwan Namdeo Rane
residing at Mayureshwar Kripa
First floor, Patharli, Near Datta
Mandir, Dombivli (East)
Thane ... Petitioner

V/s.

1. The State of Maharashtra
through its Home Secretary
Government of Maharashtra,
Mantralaya, MUmbai

2. The Commissioner of Police
Thane ... Respondents

Mr.D.A. Nalawade for Petitioner
Mr.S.R. Nargolkar, AGP, for Respondent Nos.1 and 2

CORAM: **V.G. PALSHIKAR &**
SMT.NISHITA MHATRE, JJ.

DATED: **FEBRUARY 15, 2005**

ORAL JUDGMENT (PER PALSHIKAR, J.):

. By this Petition, the Petitioner has impugned the order passed by the Maharashtra Administrative Tribunal rejecting the challenge of the Petitioner to the order passed by the Police Commissioner under Rule 72 of the relevant Rules treating the period of suspension of the Petitioner as the period of suspension.

2. The Petitioner was in the employment of State

police and was prosecuted for certain offences while in service. As operation of law, therefore, he was suspended and ultimately when the trial ended in his acquittal, he was reinstated in service. In so far as the period during which he was on suspension is concerned, notice was given to the Petitioner to show cause why that period be not treated as on suspension. The Petitioner replied to the said notice and claimed that since his acquittal was clear, witnesses have not deposed against him. Nobody had deposed about his presence and that the period of suspension need not be treated as one on suspension. This explanation was not accepted by the authority and it was treated as period of suspension. This order was impugned before the Maharashtra Administrative Tribunal and the Tribunal rejected the application observing as under:

> "4. The procedure contemplated by Rule 72 referred to above was duly followed and a reason which is sufficient was assigned by the authority for passing the order. Under such circumstances, we do not find any substance in the petition. The same is rejected summarily."

3. In view of the fact that the procedure as contemplated by Rule 72 was followed and clear observations were made by the learned Magistrate under

the order of acquittal to the following effect:

> .. As there is no doubt in my mind about the presence of the sole accused Bhagwan at the place of incident, benefit of doubt goes in his favour....,

when the Petitioner was acquitted by giving him the benefit of doubt, an order treating the period of suspension as one on suspension cannot be said to be perverse or in any manner illegal. The Tribunal was, therefore, right in rejecting the Original Application. The Petition is, therefore, dismissed.